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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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11 UNITED STATES OF AMERICA,) No. CR-01-0425 PJH
12 vs. Plaintiff,)
13 VAUGHNTSE JAMES,) **STIPULATION REGARDING
14 Defendant.**) SENTENCE REDUCTION UNDER
15 _____) U.S.S.G. AMENDMENT 706 (AS
16) AMENDED BY 711) AND ORDER

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18 IT IS HEREBY STIPULATED AND AGREED, by and between the parties acting
through their respective counsel, that:

19 1. The Court has indicated that it is making its own motion for a modification of the
20 defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).
21 2. Defendant's original guideline calculation was as follows:

22 Total Offense Level: 31

23 Criminal History Category: III

24 Guideline Range: 135-168

25 Mandatory Minimum: 60 months

26

1 3. Defendant was sentenced to 97 months imprisonment on July 10, 2002. The sentence
2 imposed included a downward departure from 135 to 97 months.

3 4. Defendant's current projected release date is January 22, 2009.

4 5. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §
5 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission
6 Guidelines Manual.

7 6. Defendant's revised guideline calculation is as follows:
8 Total Offense Level: 29
9 Criminal History Category: III
10 Guideline Range: 108-135

11 7. Pursuant to Note 3 of Amended Guideline § 1B1.10, defendant is eligible for a
12 comparable reduction below the amended guideline range.

13 8. The parties have no reason to dispute the Reduction of Sentence Report submitted to the
14 Court by the probation office.

15 9. Based upon the foregoing, the parties hereby stipulate that a sentence of 78 months is
16 appropriate in this matter.

17 10. The parties further stipulate that all other aspects of the original judgment order including
18 the length of term of supervised release, all conditions of supervision, fines, restitution,
19 and special assessment remain as previously imposed.

20 11. Defendant stipulates that he waives and does not request a hearing in this matter pursuant
21 to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220
22 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472
23 F.3d 1167 (9th Cir. 2007).

24 12. Defendant waives his right to appeal the district court's sentence.

25 13. Accordingly, the parties agree and stipulate that an amended judgement may be entered
26 by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and

1 USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission*
2 *Guidelines Manual.*

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4 IT IS SO STIPULATED:

5 /S/

6 Date: 3/24/08
7 _____
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9 Rebecca Sullivan Silbert
10 Counsel for Vaughntese James

11 Date: 3/24/08
12 _____
13 Erika Frick
14 Assistant United States Attorney

15 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
16 "conformed" signature (/S/) within this e-filed document.

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ORDER

15 Based on the above stipulation, the Court hereby ORDERS the following:
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17 1. The Court is making its own motion for a modification of the defendant's sentence
18 pursuant to 18 U.S.C. § 3582(c)(2);
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20 2. The original Judgment in the above-captioned case is AMENDED to impose a term of
21 imprisonment of **78 months**. All other aspects of the original judgment, including the
22 length of term of supervised release, all conditions of supervision, fines, restitution, and
23 special assessment remain as previously imposed.
24
25 3. Defendant's original guideline calculation was as follows:
26
27 Total Offense Level: 31
28
29 Criminal History Category: III
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31 Guideline Range: 135-168

1 Mandatory Minimum: 60 months

2 Sentence Imposed: 97 months

3 4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §
4 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission
5 Guidelines Manual;

6 5. Defendant's revised guideline calculation is as follows:

7 Total Offense Level: 29

8 Criminal History Category: III

9 Guideline Range: 108-135

10 6. Because defendant received a downward departure at his initial sentencing, he is eligible
11 for a comparable reduction in this modification;

12 7. Defendant has waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43,
13 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v.*
14 *United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9th Cir.
15 2007).

16 8. Defendant has waived his right to appeal the sentence imposed by this Order.

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19 Date: 3/25/08



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